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Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) and Commercial Road Vehicles (1956)

Application of the 1956 Convention

Note by the International Touring Alliance and the International Automobile Federation

I. Introduction

1. The "comments" referred to in this document were recorded in the Working Party on Customs Questions affecting Transport (WP.30) documents and reports. "Best practices" referred to in this document relate to opinions expressed by the United Nations Economic Commission for Europe (UNECE) legal advisers as well as practical experiences of the issuing and guaranteeing associations of "Carnets de Passages en Douane" and the international organizations to which they are affiliated.
2. "Carnets" referred to in this document are the temporary importation papers in Annex 1 of the 1956 Convention, entitled "Carnets de Passages en Douane".

II. Comments and Best Practices

Article 1, paragraph (a)

3. In the context of "best practices", fees, service charges, fines and penalties are not included in "import duties and import taxes".

Article 1, paragraph (c)

4. The World Customs Organization (WCO) and WP.30 provided comments concerning the definition of the term "commercial use". With regard to rally vehicles, when the person driving the rally car does so as an amateur, the importation would be for "private

use". However, when driving the rally car for a profession, the importation would be for "commercial use". A prize would constitute a "remuneration" or "reward" in the opinion of the WCO.

5. With regard to vehicles on loan for business, a situation such as a person writing articles and taking photographs for publication as a profession with appropriate remuneration would make the importation of the car for "commercial use". Promoting a car is a commercial activity since the obvious intent is to sell more of the cars. Small coaches and minivans carrying paying passengers would constitute "commercial use".

(ECE/TRANS/WP.30/1998/3)

Article 1, paragraph (g)

6. To discourage the unauthorized issue of carnets by individuals and commercial groups, Resolution No. 45 was adopted on 16 March 1984 by GE.30. This intent was reconfirmed in Resolution No. 51, adopted on 4 October 2005 by WP.30. *(The text of these resolutions is copied for information at the end of this document.)*

(ECE/TRANS/GE.30/37, Annex 1)

(ECE/TRANS/WP.30/222)

Article 14.1, paragraph (b)

7. In duly authenticated accidents, it is often the case that vehicles are taken into the custody of the police. Since it is not defined in the conventions which authorities fall under the term "Exchequer", the custody of the vehicle by both police and Customs could be considered under this term.

(ECE/TRANS/WP.30/2004/21)

Article 14.2

Article 14.3

8. In the context of "best practices", when vehicles are seized following criminal cases, the requirement for re-exportation is suspended for the duration of the seizure. The Customs have the obligation to notify the guaranteeing association of such seizures and advise it of the measures they intend to take.

(Comment by UNECE legal advisers, April 2000)

9. The termination of seizure of a vehicle would require a court decision.

(ECE/TRANS/WP.30/2004/21)

Article 18

10. In the context of "best practices", Customs may claim duties if a final and unconditional discharge of the carnet has not taken place. However, if Customs stamp the exit voucher of the carnet despite the expiry of validity of the document, then this should be regarded as a proper discharge of the carnet and Customs no longer have the right to claim payment.

(Comment by UNECE legal advisers, April 2000)

Article 19

11. In the context of "best practices", Customs may not charge regularization or stamping fees to carnet holders when carnets are used normally for temporary importation.

(Comment by UNECE legal advisers, April 2000)

Article 22.1**Article 22.2****Article 25 bis**

12. In the context of "best practices", the concept of *force majeure* may be extended by certain Contracting Parties to include the rupture of diplomatic relations between two countries, armed conflicts, and natural disasters.

13. In the Istanbul Convention (1990) administered by the World Customs Organization (WCO), Commentary (2) to Article 14.1 states that "accident or force majeure" refers to cases over which the person concerned has not had or could not have had any control. "Force majeure" covers war, riots, natural disasters, acts of God, etc.

14. Article 14.3 of the Istanbul Convention states that persons benefiting from temporary admission shall be free of payment of import duties and taxes if the persons satisfy the Customs authorities of the destruction or total loss of the goods (including means of transport) by accident or force majeure.

Article 24.1**Article 24.2**

15. The convention stipulates that the competent authorities shall accept as regularization proof the presentation of the Certificate of Location (Annex 4) issued by an official authority relating to vehicles or components that have been re-exported. No additional certification or procedures should be required except in cases where fraud is suspected.

(ECE/TRANS/WP.30/2006.15)

Article 26

16. In the context of "best practices", guaranteeing associations shall consider customs claims as "time-barred", i.e., invalid, if the time deadlines specified in Article 26 are not respected. The Customs authorities must notify the guaranteeing association of a customs claim within one year of the date of expiry of the carnet. The duty calculation must be provided by the Customs authorities within one year of the claim notification.

Article 27.1**Article 27.2**

17. In the context of "best practices", if proof of re-exportation is not submitted by the guaranteeing association within one year of the claim notification, the duties and taxes should be paid within the following three months. The Customs authorities have one year in which to contest the validity of the proof of re-exportation provided.

Article 27.4

18. In the context of "best practices", fines, fees and penalties may not be added to a customs claim.

Article 28

19. In the context of "best practices", Customs are free in the event of criminal cases to take proceedings against persons using carnets, but not against the guaranteeing association.

(Comment by UNECE legal advisers, April 2000)

Article 31

20. In the context of "best practices", fines and penalties may be imposed upon persons who have violated temporary importation regulations, but not against the guaranteeing association.

Article 33

21. The UNECE Secretariat is invited to actively encourage accessions to these Conventions and to encourage their effective implementation. The UNECE secretariat is also requested to take initiative in organizing capacity building seminars in these areas.

(ECE/TRANS/WP.30/234)

NB: The United Nations Office of Legal Affairs in New York organizes each year a "treaty event" during which the provisions and scope of various conventions are discussed and countries are encouraged to accede. (information provided by the UNECE Secretariat)

Annex 1 to the 1956 Convention

Explanatory note on Carnets de Passages en Douane

22. The Carnet de Passages en Douane (carnet) consists of a cover and five, ten or twenty-five interior sheets; a separate sheet is used for each country visited. All sheets are identical, with the exception of the page number. All sheets of the carnet are printed on white watermarked paper reacting to chemical agents.

23. An additional sheet is included after the last page of every carnet: the Certificate of Location (Annex 4). A Certificate of Location may be used, in accordance with the specific instructions given by the issuing association, for the adjustment of undischarged, destroyed, lost or stolen carnets.

24. The carnet cover, printed on orange paper, is embossed with a round stamp containing within the circle the name of the international organization which printed the carnet. The back cover bears the list of countries in which the carnet may be used and the corresponding guaranteeing associations. A stamp in red ink, in the form of two semi-circles, one of which bears the phrase "not valid for", features on the back cover and on the importation voucher and counterfoil of every sheet of the carnet. The countries for which the carnet is not valid are listed between the semi-circles. On the inside of the back cover, the international organizations print instructions for holders on the use of the carnet.

Instructions for the issuing association

25. The issuing association must complete the front cover with the following information:

- (a) the name and address of the holder,
- (b) the period of validity (a maximum of one year),
- (c) the name of the issuing association,
- (d) the country of registration and the registration number of the vehicle,
- (e) the place and date of issue,
- (f) the signature of the issuing association.

26. The issuing association must complete the inside of the front cover with the name of the country of registration, the registration number of the vehicle and a complete description of the vehicle covered by the carnet.

27. The issuing association must also complete all sheets of the carnet, importation and exportation vouchers with:

- (a) the name and address of the holder,
- (b) the period of validity,
- (c) the name of the issuing association,
- (d) the country of registration and the registration number of the vehicle,
- (e) a description of the vehicle in full.

Instructions for the holder of the carnet

28. The holder of the carnet must sign the front cover. The holder must also ensure on the spot (in every country visited) that all entries and exits are correctly recorded in the document and, if necessary, have it completed or corrected.

29. In all circumstances, the holder must comply with the conditions of temporary admission as laid down in the laws and regulations of the country visited. In no case shall the holder part with his/her vehicle (sale, destruction, etc.) while in the territory of temporary admission without prior approval by the Customs authorities.

30. Should a carnet be lost, destroyed or otherwise mislaid while the vehicle is abroad, or in the case of theft or abandonment of the vehicle, the holder should immediately advise the issuing association and follow the instructions given.

31. The carnet is the property of the issuing association and must in all cases be returned to it, duly regularized, at the latest on the date of expiry.

Instructions for the customs authorities

32. On entry, the Customs authorities should:

- (a) detach and retain the importation voucher,
- (b) complete the lines on the exportation voucher which indicate the Customs office of importation and the frontier post registration number,

- (c) complete, sign and stamp the left part of the counterfoil.
- 33. On exit, the Customs authorities should:
 - (a) detach and retain the exportation voucher,
 - (b) complete the right side of the counterfoil with the official stamp of the office indicating the frontier post and the date of exit,
 - (c) sign the right side of the counterfoil.

III. Resolutions adopted by the Group of Experts/the Working Party on Customs Questions affecting Transport (GE.30/WP.30)

A. Resolution No.45 adopted on 16 March 1984 by the Group of Experts on Customs Questions affecting Transport

The Group of Experts on Customs Questions affecting Transport,

Being concerned with eliminating possible forms of abuse of the customs documents for the temporary importation of private or commercial vehicles,

Emphasizing the fact that the system established either under the Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) or the Customs Convention on the Temporary Importation of Commercial Road Vehicles (1956) constitutes a whole and must be applied in its totality by those Governments which have acceded to the said Conventions and by those Governments which *de facto* apply them,

Recommending to Governments that the issue of temporary importation papers should be entrusted only to associations that are nationally approved and are affiliated to an internationally recognized organization offering adequate guarantees,

Invites the Executive Secretary of the Economic Commission for Europe, by reason of the global character of the customs system in question, and by reason of the interest to member countries of the Economic Commission for Europe in the means of facilitating travel that this system offers, to bring the matter to the attention of the other regional economic commissions of the United Nations with the aim of promoting the correct application of the Conventions and the accession to them.

B. Resolution No. 51 adopted on 4 October 2005 by the UNECE Working Party on Customs Questions affecting Transport

The Working Party on Customs Questions Affecting Transport,

Being concerned with eliminating fraud and the abusive use of customs documents for the temporary importation of private or commercial vehicles,

Referring to Resolution 45 adopted by the Group of Experts on Customs Questions affecting Transport on 16 March 1984, which has become obsolete,

Emphasizing the fact that the system established under the Customs Convention on the Temporary Importation of Private Road Vehicles (1954) and the Customs Convention on the Temporary Importation of Commercial Road Vehicles (1956) constitutes a whole of provisions and procedures that must be fully implemented, applied and respected by those

Governments which have acceded to these Conventions and by those Governments which de facto apply them,

Recommending to Governments that the issue of temporary importation papers should be entrusted only to associations that are nationally authorized and are affiliated to an international organization, as defined in these Conventions, offering adequate guarantees,

Stressing that this Resolution should not preclude countries from applying greater facilities beyond those provided by the Conventions referred to in this Resolution.

Invites the Executive Secretary of the Economic Commission for Europe, by reason of the global character of the customs system in question, and by reason of the interest to member countries of the Economic Commission for Europe in the border crossing facilitation means that this system offers, to bring the matter to the attention of Contracting Parties to the Conventions on Temporary Importation of Vehicles, 1954 and 1956, respectively, countries de facto applying the Conventions and other regional economic commissions of the United Nations with the aim of promoting the correct application of the Conventions and the accession to them.
